

**REMARKS**

Claims 1-14 are all the claims pending in the application.

Applicant has amended independent claims 1, 2, 4, 8, 9 and 11 to further clarify Applicant's claimed invention.

**PRIOR ART REJECTIONS**

The Examiner has rejected claims 1-3 and 8-10 under 35 U.S.C. § 102(b) as being anticipated by Lin et al. Applicant traverses these rejections because Lin et al. fails to disclose or suggest all of the claim limitations. Specifically, Lin et al. fails to disclose or suggest at least the following:

**Claim 1:**

tone setting means that generates ringing tones by using tone information contained in said melody data.

**Claim 8:**

generating a tone for playing a melody in accordance with said melody data, by using said fetched tone information;

Regarding claims 1 and 8, one feature of applicant's invention is that the melody data contains actual tone information/data and that information/data is used by the tone setting means to generate the tones. On the other hand, the prior art downloads tone patterns, as opposed to the actual tone data that is used to generate tones. For example, Lin et al. discloses downloading tone patterns (item 65 in figure 4). In Lin et al., the tone information/data used to generate the tones is contained in the mobile station 20 and is not fetched from the server. For example, Lin et al. may download a pattern tones that should be used (tone X, then tone A, then tone B, etc.).

The mobile station then generates tones X, A, B, etc. by using information about those tones that are already in the mobile station. This is clearly different than the claims, as amended. In the claimed invention, the tone setting means generates tones by using tone information that has been fetched from the server.

Regarding claims 2, 3, 9 and 10, they should be allowable at least based on their dependence from claims 1 or 8.

The Examiner has rejected claims 4-7 and 11-14 under 35 U.S.C. § 103(a) as being unpatentable over Lin et al. in view of Yoshino et al. Applicant traverses these rejections because Lin et al. fails to disclose or suggest all of the claim limitations and there is not suggestion or motivation in the prior art that would have led one skilled in the art to modify Lin et al. system to arrive at the claimed invention.

First, claims 4-7 and 11-14 should be allowable at least based on their dependence from claims 1 and 8 for the same reasons described above, because Yoshino et al. fails to make up for the deficiencies of Lin et al.

Next, the Examiner concedes that Lin et al. fails to disclose or suggest a tone setting means that generates ring tones by performing a modulation processing by using tone information contained in the melody data. In order to make up for this deficiency, the Examiner cites to Yoshino et al. and asserts that one of skill in the art would have combined the Yoshino teaching of modulation processing with the Lin et al. mobile station so that the set ringing tones in the musical scores could be executed as ringing tone patterns on the mobile station. Applicant respectfully disagrees. Because the tone information is already contained in the Lin et al. mobile

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station and is not fetched from a server, there would be no need to extract audio information from the fetched data and then perform modulation processing.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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